

**A. Conditions to Be Substantially Met**

1. Number of Pupils. The new districts will be adequate in terms of number of pupils enrolled.

*Regulations:* This criterion is governed by CCR, Title 5, Section 18573(a), which states that each affected school district shall have the following projected enrollment on the date that the proposal becomes effective:

Elementary District .....	901
High School District .....	301
Unified District .....	1,501

2. Substantial Community Identity. The districts are each organized on the basis of a substantial community identity.

*Regulations:* This criterion is addressed by CCR, Title 5, Section 18573(a)(2), which should be reviewed together with the following guidelines.

No single factor is likely to determine that community identity exists. The county committee will probably need to examine several attributes of the population and the makeup of the territory in question to make a judgment on this criterion. Some indicators that the committee might study include types of housing, parks and recreation facilities and programs, sports activities, transportation patterns, geopolitical factors, and shopping patterns.

- a. Similarity of architecture, size, and style of homes can create a sense of community identity. A homogeneous housing development would likely generate a sense of community among the residents.
  - b. The usage patterns of parks and school facilities for recreation programs and sports activities for youth can indicate a community identity.
  - c. Traffic patterns and public transportation systems and routes may have an impact on community identity.
  - d. Geopolitical factors such as topography and city council, county supervisor, and special district electoral districts might also create a sense of community among the citizens of an area. Post office names and zip code areas also could contribute.
  - e. Neighborhood and regional shopping patterns are often well defined and play a part in the way people see themselves.
  - f. There is no legal necessity that school district boundaries match city boundaries.
3. Division of Property. The proposal will result in an equitable division of property and facilities of the original district or districts.

*Statutes and Regulations:* This criterion is addressed by State Board of Education regulations in CCR, Section 18573(a)(3).

In reviewing the aspects of proposals dealing with school facilities, county committees should request long-range facilities plans from the affected school districts.

Those plans should include:

- a. Demographic studies showing both current and projected student population data;
- b. Development of “study area” maps showing census tracts, boundaries, current and proposed zoning, and current and projected residential and commercial/industrial development;
- c. An evaluation and report of the utilization, capacity, and condition of existing school facilities; and
- d. Development of a “comparison analysis” considering both existing and proposed divisions.

There are additional related Education Code provisions for the division of real and personal property. In particular, refer to Education Code sections 35560, 35564, and 35570 through 35579. If a dispute arises concerning the division of real property, Education Code Section 35565 provides for binding arbitration of the dispute.

4. The reorganization of the districts will not promote racial or ethnic discrimination or segregation.

Pursuant to state law, local educational agencies have a constitutional obligation to prevent racial and ethnic segregation and to alleviate the harmful effects of segregation. (5 CCR 18573[a][4]) To determine whether the new districts will promote racial or ethnic discrimination or segregation, the effects of the following factors will be considered:

- a. The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.
- b. The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the entire district, and in each school of the affected districts.
- c. The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or alleviate racial or ethnic discrimination or segregation.
- d. The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils,

capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.

- e. The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.

The following types of data are examples of relevant information that may be submitted in support of a petition: the district(s) enrollment statistics that specify the percentages of various ethnic groups; the district(s) enrollment statistics that specify the percentages of the various ethnic groups in each individual school; the district(s) enrollment statistics that specify the grade and ethnic groups of students; the type of attendance area served by a school (rural, suburban, or urban); and the trends in the district(s) total population and percent distribution by race.

The information noted above may be obtained from the following agencies: local school boards (e.g., board policies and procedures), U.S. Bureau of the Census (e.g., 1990 Census), California Department of Finance (e.g., 1996 California Statistical Abstracts), California Department of Education (e.g., CBEDS), or other state or federal agencies.

- 5. Cost to State. The proposed reorganization will not result in any substantial increase in costs to the state.

*Regulations:* There are no current regulations on this subject; however, some guidelines are presented that may assist the county committee in its review of proposals.

The following factors should be considered in evaluating this criterion:

- a. Whether implementation of the proposal would change one or more of the affected districts' basic aid status.

A change in basic aid could increase the amount of state apportionment funds required for either the proposed new district or one or more of the remaining districts. Any increase in state apportionments due to recomputation of the revenue limits as required by Education Code sections 35735 through 35735.2 does not apply to the analysis of this criterion.

- b. Additional state costs for school facilities.
- c. Other state special or categorical aid programs and any increased state costs if students transferring would qualify in the gaining district and not in the losing district.
- d. The additional costs to the state if costs per student for special or categorical programs are higher in the gaining district.
- e. The effect on the districts' home-to-school and special education transportation costs and state reimbursements.

- f. Increased costs resulting from additional schools becoming eligible for “necessary small school” funding pursuant to sections 42280 through 42289.
- 6. Educational Programs of Existing and Proposed Districts. The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue or promote sound educational performance in those districts.

*Regulations:* Please review CCR, Title 5, Section 18573(a)(5) and the following guidelines.

Although it is difficult to accurately predict the changes that would occur in the educational program as a result of district reorganization, there are indicators that would be helpful to consider in making a decision on territory transfers.

- a. Most elementary schools, all middle schools, and 20 percent of California’s high schools take part in a program quality review once every three years. Most high schools participate in an accreditation review conducted at least every six years by the Western Association of Schools and Colleges. These reviews culminate in a comprehensive report that compiles information on student achievement and on schoolwide concerns such as planning, school climate and culture, and governance. Although these are peer reviews that provide primarily qualitative data, they are especially effective in judging program quality when viewed in concert with quantitative data. Such data include the School Accountability Report Card (required as a result of the passage of Proposition 98), which is produced by the school district, and the School Performance Report produced by the California Department of Education.
  - b. In making a determination about program quality, a committee would do well to consider a wide array of data. For high schools these indicators range from the number of Advanced Placement courses offered by the district to the dropout rate.
  - c. Although past performance does not always predict future achievements, the academic track record of a district should certainly be considered when making a decision about reorganization. If a district has failed to perform over a significant period of time, it would be questionable to give a district responsibility for educating more students. However, if reorganization provides for a richer curriculum, more course offerings, and greater resources, the likelihood that educational performance will increase is enhanced.
- 7. School Housing Costs. The proposed reorganization will not result in a significant increase in school housing costs.

*Regulations:* No regulations have been adopted on this subject; however, a good plan should provide a concise analysis of the availability of school facilities to house the pupils in the portion of the district being reorganized. If the reorganization is creating a new school district, the school facilities must be adequate to serve all grade levels. If an elementary school district is unifying, there should be a plan for secondary school facilities. Formerly plans have been approved in which the newly unified

school districts phase in secondary school programs. When the reorganization is a territory transfer, the plan should address whether the school district receiving the new students has adequate facilities to house them. If new facilities are required in either of the above cases, the plan should address how the facilities will be funded.

The following areas should also be addressed:

- a. Local bonding capacity. It should be determined whether the territory transfer reduces the assessed valuation of a district to a point where the bonding capacity might be impaired.
  - b. Developer fees. An analysis should be made of how income from developer fees might be affected. Whether developer fees have already been paid, whether they have increased or decreased because of the district losing or gaining the territory, and the impacts of the territory transfer should be determined.
  - c. School property. If there is school property in the area to be transferred, the impact on each district should be determined. If an entire school is to be transferred, it should be determined how the district losing the school will compensate for the loss of facilities. If school sites are involved, it should be determined how each district's facility plan will be affected.
  - d. Leroy Greene State School Building Lease Purchase Program. It should be determined how the loss and gain of pupils will affect school districts' eligibility for state building funding.
8. Property Values. The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.

*Regulations:* There are no regulations on this subject; however, the rationale given in the petition for the territory transfer should be analyzed. If the petitioners' rationale for the transfer appears questionable or not compelling, the county committee should at least consider whether increased property values might be the primary reason for the petition. The county tax assessor's office or local real estate firms could be consulted for advice on whether territory transfers might have an impact on property values.

9. Fiscal Management or Fiscal Status. The proposed reorganization will not cause a substantial adverse effect on the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.

*Regulations:* There are no regulations on this subject; however, the criteria and standards adopted by the State Board of Education pursuant to Education Code Section 33127 (Chapter 1462, Statutes of 1988) and published in CCR, Title 5, sections 15440–15466, are recommended for evaluation of the financial condition of school districts affected by any proposed reorganization.

The criteria and standards review process is designed to evaluate how the reorganization will affect the school district's fiscal status for the current and

succeeding years. The county committee should review and consider any potential revenue gains or losses resulting from community redevelopment agency agreements or other pass-through agreements, loss of incremental taxes, Mello-Roos Community Facility District funds, parcel taxes, certificates of participation, basic aid, tax overrides, mitigation agreements with developers, and any other categorical or specialized funds (e.g., Public Law 874 funds and Timber Reserves).

The best way to determine the fiscal management of the school district is to use the criteria and standards review process used by county superintendents. This process employs state-adopted standards and criteria to evaluate the fiscal health of a district. It is recommended that the county committee work closely with the staff of the county superintendent responsible for reviewing district budgets.

- a. School districts and county superintendents use the California Department of Education's Form J-201CS to review the district's budget for conformance with Education Code and CCR, Title 5, "Criteria and Standards," for developing and managing their budgets. This review is repeated annually; therefore, relatively current data would be available to assist in analyzing whether the district reorganization fiscal management criterion would be met if a reorganization proposal were approved.
- b. Other sources of information include the affected school districts' annual audit reports completed by independent auditors.

## **B. Exceptional Situations**

In considering proposals for unification, the State Board of Education must determine whether the criteria in Education Code Section 35753(a) were substantially met. However, subdivision (b) of that section of the law also gives the State Board the authority to depart from the criteria under certain conditions. Specifically, the board may determine that it is not practicable to apply the criteria literally and that an exceptional situation exists that warrants approval of the proposal.

California Code of Regulations, Title 5, Section 18573, states that the minimum size for a unified school district is supposed to be 1,501 students. In sparsely populated areas, however, it is often difficult to reach that number of students. The State Board has considered such factors as distance, weather conditions, geography, and topography in deciding whether to waive the size criterion.

## **Criteria for Approval of Reorganization Proposals**

The following criteria are based on Education Code Section 35753:

1. The new districts will be adequate in terms of number of pupils enrolled.
2. The districts are each organized on the basis of a substantial community identity.
3. The proposal will result in an equitable division of property and facilities of the original district or districts.
4. The reorganization of the districts will not promote racial and ethnic discrimination or segregation.
5. The proposed reorganization will not result in any substantial increase in costs to the state.
6. The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue to promote sound educational performance in those districts.
7. The proposed reorganization will not result in a significant increase in school housing costs.
8. The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.
9. The proposed reorganization will not cause a substantial adverse effect on the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.

The State Board of Education may approve a proposal of the reorganization of school districts if the board determines that it is not practicable or possible to apply the criteria of this section literally and that an exceptional situation exists that warrants approval of the proposals.

## C. Comparison of Statutory and Regulatory Requirements

### Criteria Used by the State Board of Education to Consider Matters Relating to School District Organization

Education Code Section 35753	California Code of Regulations, Title 5, Section 18573
35753. Approval by the State Board of Education; Conditions	18573. Criteria for Reorganization of School Districts
(a) The State Board of Education may approve proposals for the reorganization of districts if the board has determined, with respect to the proposal and the resulting districts, that all of the following conditions are substantially met:	(a) The analysis of the proposal or petition by the Department of Education shall state findings of fact and recommendations as to whether each district affected by the proposed reorganization substantially meets the following criteria and standards:
(1) The new districts will be adequate in terms of number of pupils enrolled.	(1) It is the intent of the State Board that direct service districts not be created that will become more dependent upon county offices of education and state support unless unusual circumstances exist. Therefore, each district affected must be adequate in terms of numbers of pupils, in that:
	(A) Each such district should have the following projected enrollment on the date that the proposal becomes effective or any new district becomes effective for all purposes:
	Elementary District 901
	High School District 301
	Unified District 1,501
	(B) The analysis shall state whether the projected enrollment of each affected district will increase or decline and the extent thereof.

(2) The districts are each organized on the basis of a substantial community identity.

(2) To determine whether the new district is organized on the basis of substantial community identity, the State Board of Education will consider the following criteria:

(A) Isolation

(B) Geography

(C) Distance between social centers

(D) Distance between school centers

(E) Topography

(F) Weather

(G) Community, school, and social ties, and other circumstances distinctive about the area.

(3) The proposal will result in an equitable division of property and facilities of the original district or districts.

(3) To determine whether an equitable division of property and facilities will occur, the Department will determine which of the criteria authorized in Education Code Section 35736 shall be applied. It shall also ascertain whether the affected school districts and the county office of education are prepared to appoint the committee described in Education Code Section 35565 to settle disputes arising from such division of property.

(4) The reorganization of the school districts will not promote racial or ethnic discrimination or segregation.

- (4) To determine whether the new districts will promote racial or ethnic discrimination or segregation, the State Board of Education will consider the effects of the following factors:
- (A) The current number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts, compared with the number and percentage of pupils in each racial and ethnic group in the affected districts and schools in the affected districts if the proposal or petition were approved.
  - (B) The trends and rates of present and possible future growth or change in the total population in the districts affected, in each racial and ethnic group within the entire school district, and in each school of the affected districts.
  - (C) The school board policies regarding methods of preventing racial and ethnic segregation in the affected districts and the effect of the proposal or petition on any desegregation plan or program of the affected districts, whether voluntary or court ordered, designed to prevent or to alleviate racial or ethnic discrimination or segregation.
  - (D) The effect of factors such as distance between schools and attendance centers, terrain, and geographic features that may involve safety hazards to pupils, capacity of schools, and related conditions or circumstances that may have an effect on the feasibility of integration of the affected schools.

(E) The effect of the proposal on the duty of the governing board of each of the affected districts to take steps, insofar as reasonably feasible, to alleviate segregation of minority pupils in schools regardless of its cause.

(5) The proposed reorganization will not result in any substantial increase in costs to the state.

(No implementing regulations)

(6) The proposed reorganization will not significantly disrupt the educational programs in the proposed districts and districts affected by the proposed reorganization and will continue or promote sound educational performance in those districts.

(5) The proposal or petition shall not significantly adversely affect the educational programs of districts affected by the proposal or petition. In analyzing the proposal or petition, the California Department of Education shall describe the districtwide programs and the school site programs in schools not a part of the proposal or petition that will be adversely affected by the proposal or petition.

(7) The proposed reorganization will not result in a significant increase in school housing costs.

(No implementing regulation.)

(8) The proposed reorganization is not primarily designed to result in a significant increase in property values causing financial advantage to property owners because territory was transferred from one school district to an adjoining district.

(No implementing regulation.)

(9) The proposed reorganization will not have a substantial adverse effect on the fiscal management or fiscal status of the proposed district or any existing district affected by the proposed reorganization.

(No implementing regulation.)

- (10) Any other criteria as the board may, by regulation, prescribe.
- (b) The State Board of Education may approve a proposal for the reorganization of school districts if the board determines that it is not practical or possible to apply the criteria of this section literally and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

- (No implementing regulation.)
- (b) The board may waive the criteria specified in subsections (a) (1) through (a) (5) of this section and may approve a proposal, petition, or decide an appeal under Education Code Section 35710.5 or 35711 if the board determines that circumstances with respect to the proposal, petition, or appeal provide a sufficient exceptional situation.